

**SANTANGELO Law Offices, P.C.**

125 S. Howes, 3rd Floor  
Fort Collins, CO 80521  
(970) 224-3100 FAX (970) 224-3175

#5

**FACSIMILE TRANSMISSION**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

**TO:** **Ms. Anita Johnson**  
**Patent and Trademark Office**

**FAX:** 703-305-3230 **TELEPHONE:** 703-305-3661

**FROM:** **Craig R. Miles**  
**Attorney at Law**

**DATE:** **April 10, 2001**

**TOTAL PAGES:** 31 (INCLUDING THIS COVER PAGE) X Facsimile Only

**Client Reference:** **XY - Sonicator - US National Phase; US Appl'n No. 09/622,621**

**MESSAGE:**

Dear Ms. Johnson:

Thank you for taking your time yesterday morning to discuss the above-identified application in regard to the revised Declaration which we submitted on September 18, 2000 in response to your Notification of Missing Parts mailed on September 6, 2000.

Please note that we have transmitted by facsimile along with a letter of transmittal, a copy of the entire original response which was submitted by Express Mail by our firm on September 18, 2000 (a copy of the Express Mail certificate is also transmitted). I believe that these documents should be sufficient to show that the revised Declaration was submitted timely to the USPTO with all the necessary signatures.

As we discussed, my understanding is that a United States National Stage application may receive a filing date without submission of the oath or declaration. The oath or declaration may subsequently be submitted within 2 months of that filing date to establish the 102(e) date. I contacted Leonard Smith's extension in this regard, but he was unavailable until Wednesday to give me assistance.

If you would kindly review the documents submitted by facsimile to correct the file, I will contact Mr. Smith on Wednesday to see if we can resolve the matter of the filing date with respect to the 102(e) date.

Sincerely,  
SANTANGELO LAW OFFICES, P.C.

Craig R. Miles  
45,954

*Attorney Docket:XY-Sonic-USNP*

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

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**LETTER OF TRANSMITTAL**

Ms. Anita Johnson  
Patent and Trademark Office  
Washington, D.C. 20231

Madam:

Enclosed for filing is a copy of our firm's original Response to Notification of Missing Requirements Under 35 U.S.C. §371 in the United States Designated/Elected Office (DO/EO/US) mailed September 6, 2000, including the following documents which were originally executed on September 18, 2000 and submitted by Express Mail to the USPTO on September 18, 2000:

1. a copy of the original Response to Notification of Missing Requirements Under 35 U.S.C. §371 in the United States Designated/Elected Office (DO/EO/US) along with a copy of the original Certificate of Express Mailing;

2. a copy of the Notification of Missing Requirements Under 35 U.S.C. §371 in the United States Designated/Elected Office (DO/EO/US) along with a copy of the original Certificate of Express Mailing;
3. a copy of the revised Declaration for Patent Application executed by Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson along with a copy of the original Certificate of Express Mailing;
4. the copy of the original Letter of Transmittal, a copy of the firm check payable to the Commissioner of Patents and Trademarks in the amount of \$65.00 and post card along with a copy of the original Certificate of Express Mailing;
5. a copy of the original USPS date stamped Express Mail label;
6. a copy of the USPTO date stamped return post card;
7. this Letter of Transmittal; and
8. a Certificate of Facsimile Transmission for each document.

*I have this 10 day of April, 2001, either myself personally or through my direction of staff at this office, deposited all of the items in the above letter of transmittal with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: The Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.*

Dated this 10 day of April, 2001.

Respectfully Submitted,

SANTANGELO LAW OFFICES, P.C.

By:

  
Craig R. Miles

ATTORNEY FOR APPLICANT

PTO No. 45,954

125 South Howes, Third Floor

Fort Collins, Colorado 80521

(970) 224-3100

*Attorney Docket:XY-Sonic-USNP*

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.
2. I have this day transmitted by facsimile the attached Letter of Transmittal addressed to: Ms. Anita Johnson at the Patent and Trademark Office, Washington, D.C., 20231, at facsimile number 703-305-3230 dated this 10 day of April, 2001.

  
Shannon Nation-Kammerer

Attorney Docket:XY-Sonic-USNP

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Shannon Nation-Kammerer

*Express Mail No:EL696071118US*  
*Attorney Docket:XY-Sonic-USNP*

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Group Art Unit: 5611

Examiner: BUCHANAN

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**RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C.  
§371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The Notification of Missing Requirements under 35 U.S.C. §371, mailed September 6, 2000 (copy attached) requested:

- i) that the applicant furnish a new oath or declaration executed in accordance with 37 C.F.R. §1.66 or 37 C.F.R. §1.68;
- ii) provide a copy of the Notification of Missing Requirements; and
- iii) pay a surcharge for submitting the oath or declaration later than 20 or 30 months from the priority date.

**REMARKS**

The applicant submits an Oath or Declaration executed in accordance with 37 C.F.R. §1.66 or 37 C.F.R. §1.68 having each inventor's name appearing on the Declaration within one month from the date of the Notice along with the appropriate surcharge of \$65.00 (small entity status) and a copy of the Notification of Missing Requirements.

### CONCLUSION

The applicant believes this response addresses all outstanding requirements and should place the application in a condition for complete examination.

Dated this 18 day of September, 2000.

Respectfully submitted,

SANTANGELO LAW OFFICES, P.C.

BY: 

Craig R. Miles

Attorney for Applicant

PTO No. 45,954

125 South Howes, Third Floor

Fort Collins, CO 80521

(970) 224-3100

Express Mail No:EL696071118US  
Attorney Docket:XY-Sonic-USNP

**IN THE UNITED STATES PATENT AND  
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Examiner: BUCHANAN

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2. I have this day deposited the attached Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.

Shannon N. Nation-Kammerer



*Attorney Docket: XY-Sonic-USNP*

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Shannon Nation-Kammerer

09/622621


 UNITED STATES DEPARTMENT OF COMMERCE  
 Patent and Trademark Office

 Address: ASSISTANT COMMISSIONER FOR PATENTS  
 Box PCT  
 Washington, D.C. 20231

KX SONIC-US91P

APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
SANTAMARCO LAW OFFICES 125 SOUTH HOWES THIRD FLOOR FORT COLLINS CO 80521	SETI	PCT/US99/03638
INTERNATIONAL APPLICATION NO.		
U.S. FILING DATE: 02/19/99 PRIORITY DATE: 02/19/99		

DATE MAILED: 06 SEP 2000

 NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED  
 STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as:

- ☐ a Designated Office (37 CFR 1.494).
- ☒ an Elected Office (37 CFR 1.495)
- ☒ U.S. Basic National Fee
- ☒ Copy of the international application in:
  - ☐ a non-English language.
  - ☒ English
- ☒ Translation of the international application into English.
- ☒ Oath or Declaration of inventor(s) for DO/EO/US
- ☒ Copy of Article 19 amendments.
- ☐ Translation of Article 19 amendments into English.
- ☐ The International Preliminary Examination Report in English and its Annexes, if any.
- ☐ Translation of Annexes to the International Preliminary Examination Report into English.
- ☒ Preliminary amendment(s) filed 18 Aug 2000 and \_\_\_\_\_
- ☒ Information Disclosure Statement(s) filed 18 Aug 2000 and \_\_\_\_\_
- ☒ Assignment document
- ☐ Power of Attorney and/or Change of Address
- ☐ Substitute specification filed \_\_\_\_\_
- ☐ Statement Claiming Small Entity Status.
- ☐ Priority Document.
- ☒ Copy of the International Search Report ☐ and copies of the references cited therein.
- ☐ Other \_\_\_\_\_

2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
  - ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation
- ☐ b Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☐ c Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.
  - ☒ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917
- ☒ d Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).
- 3. Additional claim fees of \$ \_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

 ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

- 1. Translation of the Annexes MUST be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.
- 2. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.492(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

A copy of this notice MUST be returned with this response.

 Enclosed: ☐ PCT/DO/EO/917 ☐ Notice of Defective Translation  
☐ PTO-875

FORM PCT/DO/EO/905 (December 1997)

Telephone: (703) 305-3061



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

09/622621

US APPLICATION NO.	INVENTOR	FIRST NAMED APPLICANT	ATTY. DOCKET NO.	CLASS
09/622621	ELIUCHIAN			

INTERNATIONAL APPLICATION NO.	
PCT/US99/03631	
LA. FILING DATE	PRIORITY DATE
02/19/99	02/19/98
DATE MAILED: 09/06/01	

SANTAMBELO LAW OFFICES  
125 SOUTH HOWES THIRD FLOOR  
FORT COLLINS CO 80501

### NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION

This application fails to contain an oath or declaration acceptable under 35 U.S.C. 371 (c)(4) for entry into the national stage in the United States of America. The period within which to correct these requirements and avoid abandonment is set in the accompanying Office action.

A new oath or declaration, identifying this application by the international application number and international filing date is required. The oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it:

1. ☒ is not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68.
2. ☐ does not identify the specification to which it is directed.
3. ☐ does not identify the inventor(s).
4. ☐ does not identify the citizenship of each inventor.
5. ☐ does not state the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

FAILURE TO SUBMIT AN OATH OR DECLARATION IN COMPLIANCE WITH 37 CFR 1.497(a) AND (b) WITHIN THE TIME PERIOD SET WILL RESULT IN FAILURE TO ENTER THE NATIONAL STAGE AND THE ABANDONMENT OF THE APPLICATION.

Additionally, the oath or declaration does not comply with 37 CFR 1.63 in that it:

1. ☐ does not identify the city and state or city and foreign country of residence or each inventor.
2. ☐ does not state that the person making the oath or declaration:
  - a. ☐ has reviewed and understands the contents of the specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.
  - b. ☐ acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. ☐ does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application serial number, country, day, month, and year of its filing.
4. ☐ does not state that the person making the oath or declaration acknowledges the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and filing date of the continuation in part application which discloses and claims subject matter in addition to that disclosed in the prior application (37 CFR 1.63(d)).

5. *Each inventor's name should appear on each Declaration.* *Carla Johnson*

Telephone: 703

305-3661

Express Mail No:EL696071118US  
Attorney Docket:XY-Sonic-USNP

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
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For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

Examiner: BUCHANAN

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CERTIFICATE OF EXPRESS MAILING

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1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached a copy of the Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US); with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.

Shannon N. Nation-Kammerer

*Attorney Docket:XY-Sonic-USNP*

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Shannon Nation-Kammerer

Express Mail No:EL696071118US  
Attorney Docker:XY-Sonic-USNP

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Dated this 12 day of September, 2000.

Shannon M. Nation-Kammerer

*Attorney Docket: XY-Sonic-USNP*

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LETTER OF TRANSMITTAL

Assistant Commissioner for Patents  
BOX PCT  
Washington, D.C. 20231

Sir:

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1. A Response to Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US);
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4. a firm check payable to the Commissioner of Patents and Trademarks in the amount of \$65.00;
5. this Letter of Transmittal; and
6. Express Mail Certificates for each document.

**Please address all future correspondence to: Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, CO 80521.**

*I have this 13 day of September, 2000, either myself personally or through my direction of staff at this office, deposited all of the items in the above letter of transmittal with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: The Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.*

Dated this 13 day of September, 2000.

Respectfully Submitted,

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By: 

Craig R. Miles

ATTORNEY FOR APPLICANT

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I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached firm Letter of Transmittal and a firm check in the amount of \$65.00 with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of September, 2000.



*Attorney Docket:XY-Sonic-USNP*

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IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

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In Re the Application of:

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit: 5611

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.
2. I have this day transmitted by facsimile the attached copy of the original USPS date stamped Express Mail label addressed to: Ms. Anita Johnson at the Patent and Trademark Office, Washington, D.C., 20231, at facsimile number 703-305-3230 dated this 10 day of April, 2001.

  
Shannon Nation-Kammerer

*Attorney Docket:XY-Sonic-USNP*

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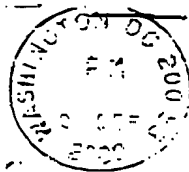
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1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.
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Shannon Nation-Kammerer



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FORT COLLINS, CO 80521

0521+2737



To: The Assistant Commissioner for Patents  
Box PCT, Washington, DC 20231

Express Mail No: EL627894581 US Attorney Docker: XY-Sonic-USNP

Please acknowledge receipt of the following documents by applying your serial number and date stamp below:

A Response to Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US) (2 pages); a copy of the Notification of Missing Requirements under 35 U.S.C. §371 in the United States Designated/elected Office (DO/EO/US) (2 pages); a new Declaration for Patent Application executed by Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson (2 pages); a firm check payable to the Commissioner of Patents and Trademarks in the amount of \$65.00; a Letter of Transmittal; and Express Mail Certificates for each document.

Date:

on

416 Rec'd PCT/PTO 18 SEP 2000